

U.S. Customs and Border Protection, DHS; Treas.

§ 113.40

(1) and (2) of this section shall be consistent with the requirements of this section.

[T.D. 84-213, 49 FR 41171, Oct. 19, 1984, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 95-77, 60 FR 50020, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 99-64, 64 FR 43266, Aug. 10, 1999; CBP Dec. 15-15, 80 FR 70166, Nov. 13, 2015]

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

If a port director, Fines, Penalties, and Forfeitures Officer, or authorized Revenue Division officer is dissatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the port director, Fines, Penalties, and Forfeitures Officer, or authorized Revenue Division personnel may take the following steps to recommend that the surety company be removed from Treasury Department Circular 570.

(a) *Report to Headquarters.* A port director, Fines, Penalties, and Forfeitures Officer, or authorized Revenue Division officer will send the following evidence to CBP Headquarters, Attention: Executive Director, Regulations and Rulings, Office of International Trade:

- (1) A copy of the bond in issue;
- (2) A copy of the entry or other evidence which shows that there was a default on the bond;
- (3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;
- (4) A copy of all correspondence from the surety company; and
- (5) A written report of the facts known to the port director, Fines, Penalties, and Forfeitures Officer, or authorized Revenue Director personnel showing the unsatisfactory performance by the surety company of the bond obligation(s).

(b) *Review by Headquarters.* CBP Headquarters will review submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action

will be submitted to the Fiscal Assistant Secretary, Department of the Treasury, as required by § 223.18(a), Bureau of the Fiscal Service Regulations (31 CFR 223.18(a)). The port director, Fines, Penalties, and Forfeitures Officer, and Director, Revenue Division will be informed in writing of Headquarters action regarding their request for removal of the surety.

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§ 113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) *General provisions.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury, the Secretary of Homeland Security, or the Commissioner of CBP are authorized to enforce, the Director, Revenue Division or, in the case of single transaction bonds, a port director, may accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the face amount of the bond that would be required. The option to deposit cash or U.S. obligations in lieu of sureties is at the option of the importer, and a CBP Form 301 or other CBP-approved bond designating the appropriate activity for the cash deposits or U.S. obligations in lieu of surety must be filed. When cash or obligations in lieu of surety are accepted, it must be for a term of no more than one year. Additional cash deposits or obligations in lieu of surety may be required.

(b) *Authority to sell United States obligations on default.* At the time of deposit with the Director, Revenue Division, of any U.S. obligation (other than U.S. money), the obligor must deliver a duly executed power of attorney and agreement authorizing the Director, Revenue Division, in the case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited and to apply the proceeds of the sale, in whole or in